IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

WEDNESDAY, THE 24TH OCTOBER 2007 / 2ND KARTHIKA 1929

WP(C).No. 31558 of 2007(F)

PETITIONER:

SOMANATHAN, S/O.UNNI,
VELIKKAKATHU HOUSE, MADAMON P.O., VADASSERIKKARA.

BY ADV. SRI.S.SANTOSH KUMAR (PERUNAD)

RESPONDENTS:

1. THE STATE OF KERALA REPRESENTED BY THE SECRETARY, DEPARTMENT OF EXCISE, THIRUVANANTHAPURAM.

2. THE ASSISTANT EXCISE COMMISSIONER, PATHANAMTHITTA.

BY GOVT.PLEADER SMT.ANU SIVARAMAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B. RADHAKRISHNAN, J.

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WP(C).No.31558 of 2007-F

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Dated this the 24th day of October, 2007.

JUDGMENT

1. On an allegation that arrack was detected, the vehicle of the petitioner has been seized. Obviously, the petitioner has to go for statutory provisions under the Abkari laws. He has made Ext.P2 before the second respondent seeking release of the vehicle. He apprehends that the second respondent would insist on cash security. This is the reason for this writ petition.

2. It is submitted by the learned counsel for the petitioner that the petitioner could be permitted to furnish bank guarantee instead of cash security. As of now, cash is quite safe in the State Treasury and there is no reason why bank guarantee should be permitted to be furnished

in lieu of cash security in these proceedings.

For the aforesaid reasons, this writ petition is disposed of directing that if the petitioner produces cash security for the value of the vehicle involved, the vehicle shall be released and if cash security as aforesaid is furnished, the adjudication proceedings as to confiscation shall be concluded within an outer limit of four months, without fail. If this time limit is not followed, the amount deposited by the petitioner shall be returned to him. The insistence of cash security will be on the basis of current market rate as determined by the competent authority.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

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